

LS 6-1113a

OGC HAS REVIEWED.

9 August 1956

MEMORANDUM FOR: Chairman, Board of Review for Shortages
and Losses

SUBJECT : Individuals' Liability Regarding Shortages
of Funds

1. I refer to the memorandum, subject as above, together with attachments, addressed to the Chairman of the Board by the Chief, Finance Division, which the Board preliminarily considered several weeks ago and transmitted to me for study. The Finance Division memorandum suggests that this Office and the DD/A took a position in the [redacted] case which is contrary to the position of this Office, the Board, and the DD/S in the [redacted] case and recommends that the Board recommend reversal of the [redacted] decision by reimbursement to [redacted] and write off to administrative expense of the amount involved.

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2. We have re-examined the file forwarded by the Finance memorandum, which includes the report and traffic on the [redacted] case, and we see no basis for reversal. As we pointed out in paragraph 5 of attachment C, legislation applicable throughout Government permits accountable offices to be relieved for the loss or shortage of Government funds if the head of the department determines (1) that such loss or deficiency occurred while the officer was acting in the discharge of his official duties or that such loss or deficiency occurred by reason of the act or omission of a subordinate of such officer or agent and (2) that such loss or deficiency occurred without fault or negligence on the part of such officer or agent. It appears that the second standard was not met, that is, there was negligence in the failure to establish procedures which would permit the distribution of the payroll, in advance, into separate envelopes so that an error could be detected prior to any disbursement. Moreover, the Chief of Mission also, although of the opinion "that every reasonable precaution was taken", in fact acknowledges the contrary by pointing out that a procedure has now been adopted

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"whereby the funds are distributed, immediately after being drawn from the cashier, and the cash for each employee on the payroll is put into an envelope, properly identified to assure delivery to the proper

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employees. In this way any error in distribution would be discovered before any funds had actually been disbursed and could be rectified immediately"

[redacted] 10 March 1953).

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3. Finance does not suggest that the [redacted] case be reversed nor was the file on that case forwarded. However, [redacted] advises that the situation in that case was that of a shortage from a petty cash fund in which there was a showing of freedom from negligence, including a highly laudatory record in the disbursing of cash in large amounts without error over a period of several years. We would think there is no basis on which to reverse the [redacted] case either.

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4. The file is returned herewith.

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[redacted]
Assistant General Counsel

Attachment

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cc: [redacted]

OGC/RHL:jcf

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